

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HARYVES CABA, by his mother and natural
guardian Albania Bonilla,

No. 08 CV.2397(CLB)

Plaintiff(s),

ECF Case

ANSWER

-against-

THE CITY OF WHITE PLAINS and "JOHN" SWIFT, the
first name being presently unknown, being a detective
employed by the City of White Plains Department of
Public Safety,

Defendant(s).
-----X

JOSEPH A. MARIA, P.C., as attorneys for THE CITY OF WHITE PLAINS and P.O.
NATHAN C. SWIFT s/h/a "JOHN" SWIFT, answer the complaint of the plaintiff as follows:

FIRST: Denies each and every allegation contained in paragraphs designated: 1, 13,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 30, 31, 33, 34, 36, 37, 39, 40, 42, 43, 45, 46,
and 47.

SECOND: Denies knowledge and information to form a belief as to each and every
allegation contained in paragraphs designated: 4, 5, 6, 7, and 9.

THIRD: Denies each and every allegation, but leaves all question of law to the Court,
in paragraphs designated: 2, 3, and 12.

FOURTH: This answering defendant repeats and realleges all of the above denials
and denies knowledge and information set forth in paragraphs designated: 26, 29, 32, 35, 38, 41,
and 44.

**AS AND FOR A FIRST SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

FIFTH: That the defendants acted in compliance with all applicable laws with just and probable cause.

**AS AND FOR A SECOND SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

SIXTH: That if the plaintiff sustained any injuries or damages, said injuries or damages were caused or contributed to by the negligence, culpable conduct, assumption of risk, or fault of the plaintiff, and were not caused or contributed to by the negligence, fault or want of care on the part of the answering defendants, or were caused by persons or parties for whose acts or omissions the answering defendants are not responsible or liable.

**AS AND FOR A THIRD SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

SEVENTH: That if any of the acts complained of in the complaint are found to have been committed by the trier of fact, said acts were justified in that the actor or actors had reasonable grounds to believe that his or their acts were reasonably justified, pursuant to law, without malicious intent, or were a reasonable response to plaintiff's acts or were in defense of person or property or in response to provocation or were to preserve the public peace or were with just or probable cause.

**AS AND FOR A FOURTH SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

EIGHTH: If it is shown that the statement or conduct alleged to have been made or undertaken by the defendants was in fact made, such statement or conduct was privileged and/or was made or undertaken by said defendants in good faith, without malice, and with just and probable cause.

**AS AND FOR A FIFTH SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

NINTH: That the statements or conduct alleged to have been made or undertaken by the defendants concerned subjects in which said defendants had an interest and were made to persons also having an interest in the subject of the statements or conduct and to whom said defendants had a duty to speak and/or report.

**AS AND FOR A SIXTH SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

TENTH: If it is shown that the defendants spoke of and concerning the plaintiff, as alleged in the plaintiff's complaint, such statements were justified, were based upon reasonable investigation, or were true.

**AS AND FOR A SEVENTH SEPARATE AND COMPLETE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

ELEVENTH: These answering Defendant(s) have immunity for all actions herein therefore, this matter must be dismissed.

WHEREFORE, this answering defendant demands judgment dismissing the complaint herein, together with costs and disbursements of this action.

Dated: White Plains, New York
May 13, 2008

S/
Joseph A. Maria (JM0209)
JOSEPH A. MARIA, P.C.
Attorneys for Defendant(s)
CITY OF WHITE PLAINS and
P.O. NATHAN C. SWIFT s/h/a
"JOHN" SWIFT
301 Old Tarrytown Road
White Plains, New York 10603
(914) 684-0333
Our File No. 33-0738(dj)